57 Fed. 368; see *Brownlie* v. *Campbell*, 5 A. C. 925, 950. See SALMOND, TORTS, 3 ed., p. 448. In the principal case a corresponding duty to speak seems to arise by reason of the relation between the parties and the complete dependence of the contractor upon the representations of the union. It follows that the union's statement constituted a continuing representation which upon the lowering of the wage scale without notice to the plaintiff became a positive misrepresentation.

DEEDS — CONSTRUCTION AND OPERATION IN GENERAL — CONVEYANCE BY GRANTOR TO HIMSELF AND WIFE. — The grantor conveyed land to himself and wife "jointly, the survivor to have full ownership." The grantor died, and after the death of the wife, his heirs claim the land. *Held*, that they are entitled to one-half. *Wright* v. *Knapp*, 150 N. W. 315 (Mich.).

The decision takes the ground that the conveyance created a tenancy in common. According to very old authority a deed made to one incapable of taking and to others that are capable, inures only to the benefit of those capable. SHEP. TOUCH. 82; *Humphrey* v. *Tayleur*, 1 Amb. 136. To the same effect are *Ball* v. *Deas*, 2 Strob. Eq. (S. C.) 24; *McCord* v. *Bright*, 44 Ind. App. 275, 87 N. E. 654. Therefore, if a man, intending to create a joint tenancy, conveys land to himself and others, a joint estate in the whole is created in the others, since he cannot convey to himself. *Cameron* v. *Steves*, 4 Allen (New Bruns.) 141. See 21 HARV. L. REV. 57. But see *Colson* v. *Baker*, 42 N. Y. Misc. 407, 87 N. Y. Supp. 238; *Saxon* v. *Saxon*, 46 N. Y. Misc. 202, 93 N. Y. Supp. 191. If the intention was to create a tenancy in common, however, the other grantees would get the property subject to the grantor's intended share, which would remain in him. *Green* v. *Cannady*, 77 S. C. 193, 57 S. E. 832. But there seems to be no basis for reaching such a result in the principal case. It is true that in spite of the common law's original bias in favor of joint tenancies, the courts from comparatively early times exercised every ingenuity to construe deeds as creating estates in common whenever possible. *Galbraith* v. *Galbraith*, 3 S. & R. (Pa.) 392. *Cf. Seitz* v. *Seitz*, 11 App. D. C. 358, 370. This tendency, moreover, has been embodied in statutes in many jurisdictions. See N. Y. CONSOL. LAWS, REAL PROPERTY LAW, § 66; HOW. MICH. STAT., § 10666. But the courts refuse to violate the express intention of the parties to the contrary. *Cover* v. *James*, 217 Ill. 309, 75 N. E. 490. And in Michigan the statutory provision for construction as a tenancy in common does not apply to a grant to husband and wife. HOW. MICH. STAT., § 10667. It appears to be equally impossible to support the case on a mere conjecture that the construction approximates more nearly to the grantor's intent since it was impossible for a tenancy by the entireties to be created, and the grantor did not intend to divest himself of all the property.

DOWER — INJUNCTION AGAINST WASTE TO PROTECT INCHOATE RIGHT OF DOWER. — A deserted wife brought a bill in equity to enjoin the opening and operating of oil wells by the defendant on land which he had obtained from her husband by a deed in which she did not join. *Held*, that the relief will not be given. *Rumsey* v. *Sullivan*, 150 N. Y. Supp. 287 (App. Div.).

For a discussion of the principles involved in the decision, see NOTES, p. 615.

EMINENT DOMAIN — COMPENSATION — TAKING OF PRIVATE WAY FOR PUBLIC STREET. — The owner of a tract of land sold all the lots, with private easements in plotted streets, but retained the fee in the streets himself. The city later condemned the fee in the streets and awarded compensation, which the abutters now claim to share on account of their private easements. *Held*, that they are not entitled to the award. *In re Hamburger*, 150 N. Y. Supp. 771 (App. Div.).

Where the abutting owners own the fee, they are entitled to substantial damages for its taking for street purposes, even though private easements already exist in favor of others. *City of Buffalo* v. *Pratt*, 131 N. Y. 293, 30 N. E. 233; *In re Ninety-Fourth Street*, 22 N. Y. Misc. 32, 49 N. Y. Supp. 600. But it is generally held that a grantor who has retained the bare fee in the plotted streets can get only nominal damages when it is taken. *Matter of the City of New York*, 196 N. Y. 286, 89 N. E. 829; see *Gamble* v. *Philadelphia*, 162 Pa. St. 413, 29 Atl. 739. Abutting owners with nothing but private easements, as in the principal case, are also unable to recover substantial compensation in the ordinary case where a public highway is substituted for the plotted streets. *Clayton* v. *Gilmer County Court*, 58 W. Va. 253, 52 S. E. 103. *Matter of the City of New York*, *supra*. Usually, the private easement is not even destroyed, but continues to exist independently of the public right and will revive on the abandonment of the highway. See *Ross* v. *Thompson*, 78 Ind. 90, 93. *Cf. Holloway* v. *Southmayd*, 139 N. Y. 390, 34 N. E. 1047. And in any event, it is difficult to prove damage, for the abutter receives the distinct advantage of a public street, whose maintenance devolves upon the city. It is conceivable, however, that the private enjoyment may be such that it will be impaired by the enlarged public user, and in such cases, the damages in fact sustained should be recoverable. See *Lowery* v. *City of Pekin*, 186 Ill. 387, 57 N. E. 1062.

EVIDENCE — CONFESSIONS — INVOLUNTARY CONFESSION OF ONE CRIME INADMISSIBLE AT TRIAL FOR ANOTHER — *RES JUDICATA*. — The defendant was on trial for perjury alleged to have been committed by him in denying the criminal act at a former trial for rape. The state offered in evidence a confession made when under arrest for rape, which was not in writing, or preceded by warning, and so failed to comply with the requirements of the statute. TEX. CODE CRIM. PROC., § 790. The defendant objected, and also set up his acquittal at the former trial. *Held*, that the confession is inadmissible. *Semble*, that the acquittal was no bar to the prosecution for perjury. *Murff* v. *State*, 172 S. W. 238 (Tex. Cr. App.).

According to the court's interpretation of the statute, an involuntary confession is made inadmissible for all purposes. This conclusion is in harmony with the reason of the confession rule and the authorities indicate that the same result would be reached even at common law. Thus an involuntary confession by the defendant has been held inadmissible to impeach him as a witness at his trial for the very crime. *Jones* v. *State*, 149 N. W. 327 (Neb.). See 28 HARV. L. REV. 428. At the trial of another person for the same crime, it is true, a prior involuntary confession by a witness has been considered competent to impeach him. See *State* v. *Mills*, 91 N. C. 581. But a confession by the defendant himself of a crime other than that for which he is on trial has been held admissible to prove his guilt only on proof that it was voluntary. *State* v. *McDaniel*, 39 Ore. 161, 65 Pac. 520; *cf. State* v. *Jones*, 171 Mo. 401, 71 S. W. 680. It would seem that the confession in the principal case would likewise be inadmissible, although it could not be condemned directly as an involuntary confession of the perjury later committed. Whether or not the prior acquittal of the substantive crime would conclude the question of perjury, would depend on the precise issue at the other trial. In substance, the rules with respect to *res judicata* are the same in criminal as in civil causes. See *Coffey* v. *United States*, 116 U. S. 436. VAN FLEET, FORMER ADJUDICATION, § 594. Thus an acquittal of another crime has been held to bar a subsequent prosecution for perjury where the court found that the parties, the point in issue, and the *quantum* of proof required were the same. *United States* v. *Butler*, 38 Fed. 498; *Cooper* v. *Commonwealth*, 106 Ky. 909, 51 S. W. 789. In the principal case, therefore, it seems that the defendant should be able to stand upon the other acquittal only if the perjury